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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/521,692	05/13/2005	John G Mancino	1872	2171
24264 7590 12/29/2006 MARTIN & HENSON, P.C. 9250 W 5TH AVENUE SUITE 200 LAKEWOOD, CO 80226			EXAMINER DUCKWORTH, BRADLEY	
			ART UNIT 3632	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE			MAIL DATE	
3 MONTHS			12/29/2006	
			DELIVERY MODE PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/521,692	Applicant(s) MANCINO ET AL.	
	Examiner Bradley H. Duckworth	Art Unit 3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-41 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 May 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>10/31/2005</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Drawings

The drawings are objected to because In figure 21, the reference numeral 526 is used for two different parts, it appears that the second 526, on the right side of the drawing should be 514. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is

requested in correcting any errors of which applicant may become aware in the specification.

Claim Objections

Claim 3 is objected to because of the following informalities: It is unclear what is being referenced as the latch structure. There is no latch structure mentioned on the base in the specification. For the purposes of examination it was assumed that the lower mounting portion on the bracket base was meant to be the latch structure as this was what was meant to the best of the examiner's understanding. Appropriate correction is required.

Claims 32 and 40 are objected to because of the following informalities: The support panel is not disclosed as having two sections, but as having two portions. For the purposes of examination it was assumed that there was one panel with two portions, each to mount a bracket, as this was what was meant to the best of the examiner's understanding of the present invention. Appropriate correction is required.

Claim 39 is objected to because of the following informalities: both instances of first and second should be changed to first or second . Appropriate correction is required.

Claim 41 is objected to because of the following informalities: In 41 (E).. "suspending said from" should read suspending said cables from. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 39 and 40 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The second upright support member and the capture flanges of claim 40 are mentioned in the summary of the invention, however it is not disclosed in the drawings, or in such a way to enable one of ordinary skill in the art to make or use the invention. As such the second upright support mentioned was assumed to be the panel, as this is what was meant to the best of the examiner's understanding of the invention. The capture flanges were assumed to be a means to attach said panel to the support member as this also was what was meant to the best of the examiner's understanding.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

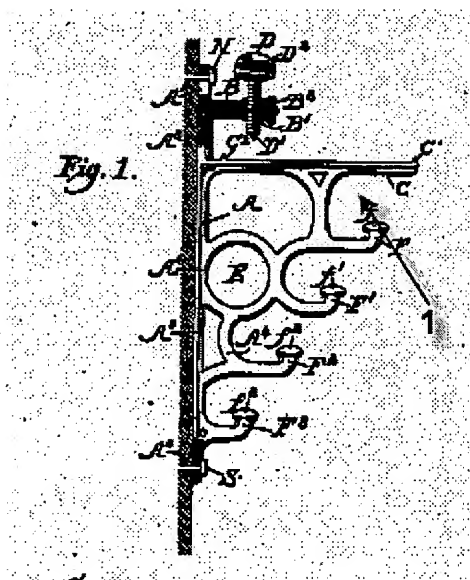
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,2,4-7, 14-18, 20-25, 29, and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Heysinger(US000564519). Referring to annotated figure 1 below,

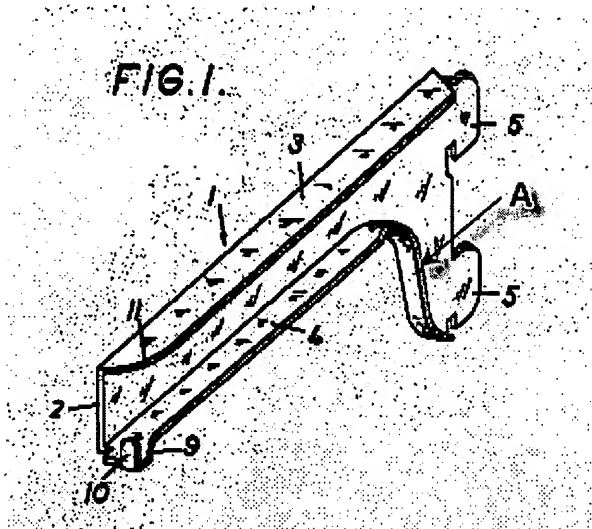
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Heysinger teaches a bracket with a base(A) that has a J-shaped mounting portion(B+D) used to mount a shelf, with an elongate beam portion(C) with a planar web portion(E) with a plurality of holes with a slot(1) formed on a forward edge, with a flange(C) on the beam section with a width greater then the web thickness but less then the web height, with a hook structure(F2) extending forward of said base and web, where the hook structure is an elongate arm spaced from said beam portion with a arcuate free end that curves toward said beam portion, with a pad(f2) on the free end forming a rearward extending lip.



Claims 1,2,3,9,and 10-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Bjerke(US003185426). Referring to annotated figure 1 below, Bjerke teaches a bracket with a base with a j-shaped mounting portion(Upper 5) and a latch structure(lower 5), with an elongate beam member with a web portion(2) with a rearward reinforcement rib(A) with a first flange(3) and a second flange on the lower edge(4) of the web where the second flange width is less then that of the first flange(see

fig 2) but is still greater than the web thickness, where the first flange length is greater than that of the second flange, where the second flange has opposite edges that converge to hook structure (10) that extends forward of said base.



Claim 41 is rejected under 35 U.S.C. 102(b) as being anticipated by Portner(US006199705). Portner teaches a lighting fixture display comprising a support surface to which is attached a support member, with a plurality of brackets arranged horizontally, and releasably secured to the support member, with electronic devices(lights) mounted on the brackets with their electric cables being suspended from said brackets. The method of using the device is shown in the drawings which inherently teaches the steps of, attaching the support member(12) to the support surface(16), arranging a plurality of brackets(20) and releasably securing them to the support member, placing electronic equipment(shown in outline in figure 1) on the

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brackets, and securing the electronic cables by suspending them from the brackets(as shown in figure 2).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 8,9,19,26,27 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heysinger. Heysinger teaches a bracket as detailed above, however Heysinger does not teach the use of forward or rear reinforcement ribs, or a gusset between the elongate arm and the beam section. It would have been obvious to one of ordinary skill in the art at the time of invention to place forward and rear reinforcement ribs as well as a gusset on the bracket of Heysinger, because ribs and gussets are well known means for adding strength to structural members and would have been an obvious design choice.

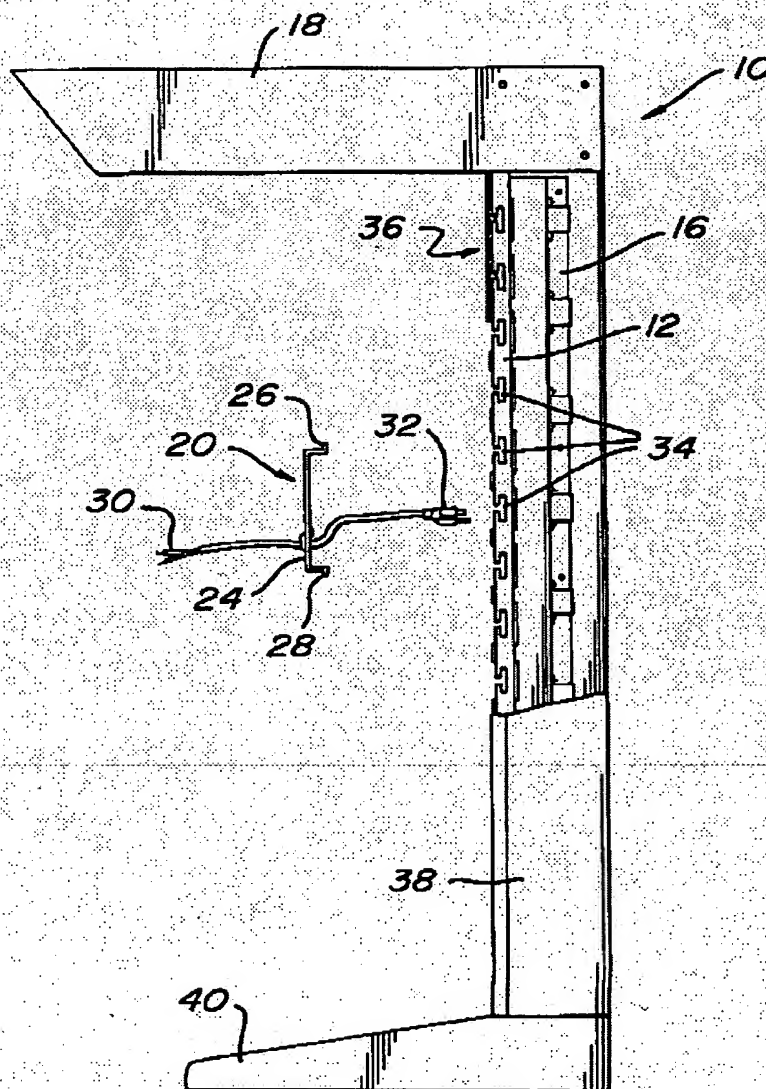
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Claims 21, 27, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bjerke in view of Heysinger. Bjerke teaches a shelf bracket as detailed above, however Bjerke does not teach an elongate support arm extending forward of said base terminating in a free end arm. Again as detailed above Heysinger teaches another shelf bracket with an elongate support arm terminating in a free end that is used to hold items, such as a whiskbroom(Figure 2 Heysinger). It would have been obvious to one of ordinary skill in the art at the time of invention to combine the elongate arm of Heysinger with the bracket of Bjerke because this would allow the bracket to hold additional articles, such as whiskbrooms.

Claims 32,38,39 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Portner, in view of Bjerke in view of Heysinger as applied to claim 21 above. Referring to Figure 3, Portner teaches a lighting fixture display comprising a support member(32) in a vertical orientation relative to and attached to a support structure(10), as well as brackets to hold lighting devices and their wires. However Portner does not disclose the use of brackets comprising a base, with an elongate beam portion with a flat upper surface, a web portion, and an elongate support arm spaced apart from said beam, such as the bracket created with the modified bracket of Bjerke of claim 21 as detailed above. It would have been obvious to replace the brackets of Portner with a pair of brackets of Bjerke, because the modified brackets of Bjerke would allow for the support of a large range of items, including a shelf and any item that could be mounted on a shelf, such as larger light devices. In regards to claim 38, applicant admits cable connectors are known in the art, and it would have been

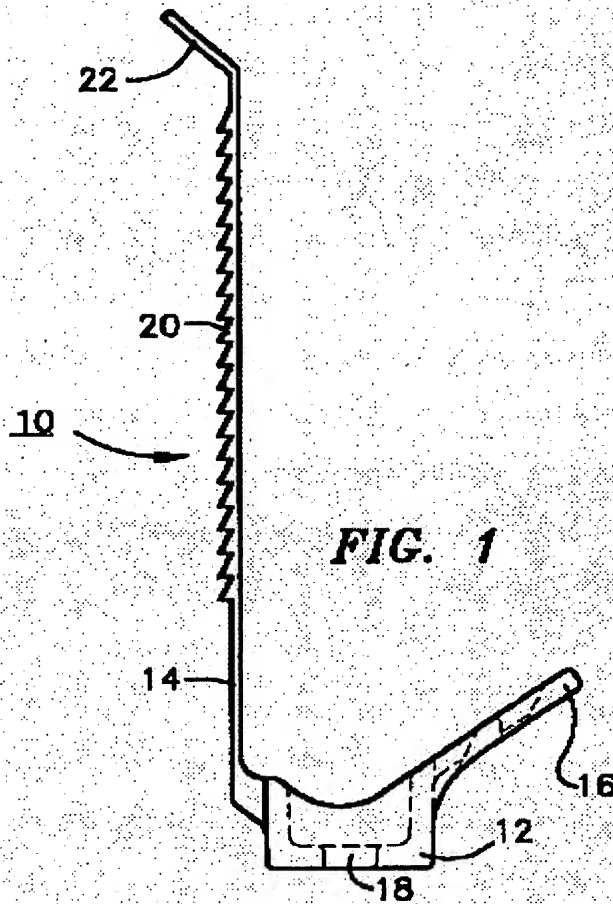
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obvious to one of ordinary skill in the art at the time of invention to use a cable connector with the plurality of holes on the support member of Portner, because the holes already provide a track for cables, and the inclusion of a connector between the wire and the slot-hole would act to secure the cable in the slot.

FIG. 3

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Claims 33-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Portner in view of Bjerke in view of Heysinger as applied to claim 32 above, further in view of Gretz(US006355887). Neither Portner, Bjerke nor Heysinger teach the use of suspension members such as cable hangers, with a flat body, hook structure, locking tab and elongate tail, to secure wires. Portner however does teach the releasable retaining of electrical cords, using the bracket(20 Figure 3) and the slots in the support member. Gretz teaches a cable hanger as shown in Figure 1, with a generally flat body, a hook portion(formed by members 14,16 and 18), a locking tab(16) and an elongate tail(20). It would have been obvious to one of ordinary skill in the art at the time of invention to use the cable hanger of Gretz to secure cables to the modified bracket of Bjerke used with Portner as detailed above, because this would allow the attachment of multiple wires to the support arm of the modified bracket, which would be an obvious improvement of the original system of Portner which has provision for a single wire in each bracket.



Claim 36 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Portner in view of Bjerke in view of Heysinger as applied to claim 32 above, further in view of Brown(US003969006). While both the support member of Portner and the modified bracket of Bjerke have slots formed thereon (the slot of the bracket being formed by the elongate beam and elongate support arm), neither calls for the use of an elastic cord. Brown teaches a medical treatment cabinet with several elastic cords used to secure a variety of materials to a pegboard. It would have been obvious to one of ordinary skill in the art at the time of invention to use the elastic bands of Brown to

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secure items and cables to the slots of the brackets and support member, as this would provide quickly releasable secure holding means.

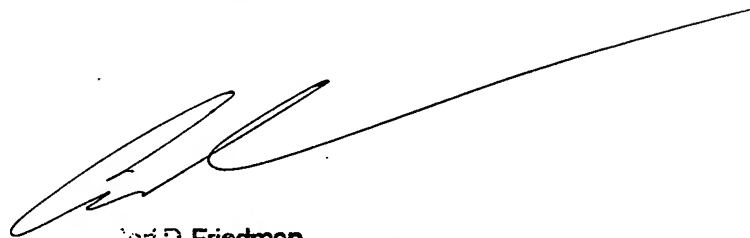
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bradley H. Duckworth whose telephone number is 571-272-2304. The examiner can normally be reached on m-f 8:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 571-272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BHD
12/21/06



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